

## 48A C.J.S. Judges § 183

Corpus Juris Secundum | August 2023 Update

### Judges

Joseph Bassano, J.D.; Khara Singer-Mack, J.D.; Thomas Muskus, J.D.; Karl Oakes, J.D. and Jeffrey J. Shampo, J.D.

### VI. Authority, Powers, and Duties

#### H. Particular Judges

##### 1. Successor Judges

###### b. Authority to Reconsider and Change Predecessor's Decision

§ 183. Limits on authority pertaining to issues of fact depending on credibility—Consideration of record or transcript

[Topic Summary](#) | [References](#) | [Correlation Table](#)

#### West's Key Number Digest

West's Key Number Digest, [Judges](#) 32

**Unless the parties have stipulated to relevant and controlling facts, a successor judge may not reconsider or set aside a predecessor's ruling or decision without reviewing or considering the record or transcript upon which the earlier decision was made.**

A successor judge may not reconsider or set aside a predecessor's ruling or decision without reviewing or considering the record or transcript upon which the earlier decision was made,<sup>1</sup> at least not unless the parties have stipulated to relevant and controlling facts.<sup>2</sup> A judge who has not presided over the original trial and who has not read a transcript of those proceedings, does not have the necessary basis to act as an advised and intelligent fact finder, either in the first instance or in an amending fashion.<sup>3</sup> In addition, to permit a successor judge to render a decision without even considering the record or the transcript upon which the earlier decision was made would render the conduct of the first judge meaningless.<sup>4</sup>

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#### Footnotes

<sup>1</sup> Ala.—[Trail Pontiac-GMC Truck, Inc. v. Evans](#), 540 So. 2d 645 (Ala. 1988).

Ariz.—[Gersten v. Gersten](#), 223 Ariz. 99, 219 P.3d 309 (Ct. App. Div. 12009).

Mont.—[FIRS Holding Co., Inc. v. Lemley](#), 272 Mont. 490, 901 P.2d 571 (1995).

2 Mont.—[FIRS Holding Co., Inc. v. Lemley](#), 272 Mont. 490, 901 P.2d 571 (1995).

3 Mont.—[FIRS Holding Co., Inc. v. Lemley](#), 272 Mont. 490, 901 P.2d 571 (1995).

4 Ala.—[Trail Pontiac-GMC Truck, Inc. v. Evans](#), 540 So. 2d 645 (Ala. 1988).

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